

BOARD OF APPEALS CASE NO. 4929

\*

BEFORE THE

APPLICANT: Benjamin & Melissa Smith

\*

ZONING HEARING EXAMINER

REQUEST: Variances for an existing  
mobile home and deck within the required  
setbacks; 4462 Flintville Road, Whiteford

\*

OF HARFORD COUNTY

\*

Hearing Advertised

\*

Aegis: 5/26/99 & 6/2/99

HEARING DATE: July 28, 1999

\*

Record: 5/28/99 & 6/4/99

\* \* \* \* \*

### **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Benjamin & Melissa Smith, are requesting a variance to Section 267-34(C), Table II, of the Harford County Code, for an existing addition to a mobile home within the required side yard setback and a variance to Section 267-23(C)(1)(a)(6) to permit an existing deck within the required side yard setback in an Agricultural District.

The subject parcel is located at 4462 Flintville Road in the Fifth Election District. The parcel is identified as Parcel No. 17, in Grid 1-D, on Tax Map 12.

Ms. Melissa Smith appeared and testified that she is requesting a variance to the required setbacks for an existing addition to a mobile home. The Applicant is proposing a 10 foot setback. Ms. Smith said she is also requesting a variance to the setback requirements for an existing deck. The Applicant is also proposing a 10 foot setback for the deck.

The Applicant said that the subject parcel is unique because a portion of the parcel is steep and rolling, and that denial of the variance would cause an unnecessary hardship because the Applicant would be required to remove the existing deck and addition. The Applicant said that she did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code due to the rural character of the area and because the parcel most impacted by the request is vacant and wooded.

## **Case No. 4929 - Benjamin & Melissa Smith**

No protestants appeared in opposition to the Applicants' request, and the Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

**"Based on the uniqueness of the property, there is sufficient justification to warrant approval of the requested variances. There are no other residential uses near the subject property. Given the immediate surrounding land uses, the reduced setbacks should not have an adverse impact on the intent of the Code and/or the surrounding neighborhood."**

### **CONCLUSION:**

The Applicants are requesting a variance to Section 267-34(C), Table II, of the Harford County Code, which requires a 20 foot side yard setback for an existing addition. The Applicants are proposing a 10 foot setback. The Applicants are also requesting a variance to Section 267-23(C)(1)(a)(6) to permit an existing deck within the required 15 foot side yard setback. The Applicants are proposing a 10 foot side yard setback.

Section 267-23(C)(1)(a)(6) provides:

**"Unenclosed patios and decks: up to, but not to exceed, twenty-five percent (25%) of the side or rear yard requirement for the district. No accessory structure shall be located within any recorded easement area."**

The evidence introduced by the Applicants was that portions of the property are steep and rolling and the most appropriate location for the mobile home, addition and deck are as presently located on the property. The Applicant testified that denial of the variances would cause practical difficulty because the Applicant would be required to remove the existing deck and addition. No evidence was introduced to indicate that approval of the variance will be detrimental to adjacent properties or materially impair the purpose of the Code due to the rural character of the neighborhood.

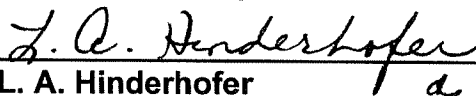
It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant in her testimony and, further, that the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

**Case No. 4929 - Benjamin & Melissa Smith**

Therefore, it is the recommendation of the Hearing Examiner that the requested variances be approved, subject to the following conditions:

1. That the Applicant shall obtain all necessary permits and inspections for the mobile home, addition, deck and shed.
2. That the existing setbacks shall not be further reduced.

Date AUGUST 12, 1999

  
\_\_\_\_\_  
L. A. Hinderhofer  
Zoning Hearing Examiner